

EMPLOYEE MARRIAGE TO OR COHABITATION WITH NON-U.S. CITIZENS

The Adjudicative Guidelines issued March 26, 1997, by the President's Security Policy Board under Executive Order 12968, "Access to Classified Information," addresses issues related to foreign preference, and states:

"A security risk may exist when an individual's immediate family, including cohabitants and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure. Conditions that could raise a security concern and may be disqualifying include:

- (a) an immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident of, or present in a foreign country;
- (b) sharing living quarters with a person or persons, regardless of their citizenship status, if the potential for adverse foreign influence or duress exists; and
- (c) relatives, cohabitants, or associates who are connected with any foreign government."

The provisions of 3 FAM 4100 Appendix B (Old 3 FAM 629), Employee Marriage, Equivalent Bonds, and Cohabitation, apply to all direct hire employees (both Foreign Service and General Schedule) in USAID. Those procedures and the roles of the offices involved are as follows (please note that the terms spouse and marriage correspond with cohabitant and cohabitation respectively):

1. At least 120 days in advance of the date of the planned marriage, the employee notifies his/her supervisor of the intended marriage. The employee has the intended spouse complete an SF-86, Questionnaire for National Security Positions (an OF-174, Application for Employment in the Foreign Service, may be substituted for an SF-86). The 120-day prior notification period was established for completion of all actions prior to the planned marriage. Those charged with having responsibility include the employee's supervisory chain, M/HR (or IG/LCM for OIG employees), OIG/SEC and may also include the

Department of State Bureau of Diplomatic Security (DS) and embassy Regional Security Officers (RSOs).

2. The employee is counseled by a supervisor on the potential risks the planned marriage may have on the employee's career (as outlined above and as prescribed in 629.2-4, 3 FAM 629). The counselor should describe the risk the marriage may have on the employee's career, i.e., the employee's career may be affected when there is an actual or perceived conflict of interest with the resulting need to put assignment restrictions in place (both from the standpoint of overseas assignments, and work assignments in the US). The counseling should note that generally, employees should not be assigned to the country of their spouse's nationality/origin or to domestic assignments which deal exclusively or largely with sensitive bilateral matters. In addition, if there is an appearance, or potential appearance, of a conflict of interest, the employee should be excluded from the assignment; likewise, the employee is expected to recuse himself/herself from such assignments. (Also refer to assignment restriction criteria in this chapter's Supplementary Reference entitled Access Restriction Criteria for additional information).

3. A copy of the record of counseling and the security forms are forwarded to M/HR by the employee.

4. M/HR prepares an Form AID 6-1 (Request for Security Action) and forwards it and the security forms to OIG/SEC for processing. OIG/SEC initiates and conducts an investigative action - a National Agency Check - and then may request DS to task the appropriate RSO to conduct the investigative field work. If the intended spouse has lived in countries other than his/her country of citizenship, the RSOs in those other countries may be tasked with providing investigative coverage. OIG/SEC cannot initiate an investigation on someone who is not an employee without authorization. The 6-1 and the completed SF-86 (or OF-174) together provide that authorization.

5. Upon completion of investigative action, OIG/SEC then advises M/HR whether there is any impact on the employee's security clearance. Employees may find their continued eligibility to hold a security clearance at risk if their current or intended spouse/cohabitant is a citizen of a country with a history of hostile intelligence activities directed against the U.S. or if that individual is a member of the national security service of any foreign government (diplomatic corps, military, or intelligence services).

6. M/HR notifies the individual of the above and subsequently takes the appropriate actions necessary to record the new spouse as a dependent.